

Response

This rejection is traversed as follows. To show obviousness under §103, it is necessary to show an incentive to benefit from the change. *KSR International Co. v. Teleflex Inc. et al.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

"The proper question to have asked was whether a pedal designer of ordinary skill, facing the wide range of needs created by developments in the field of endeavor, would have seen a benefit to upgrading Asano with a sensor. In automotive design, as in many other fields, the interaction of multiple components means that changing one component often requires the others to be modified as well." (*id* at 127 S.Ct. 1744)

A demonstration of obviousness under §103 requires that the combination represent a design step well within the grasp of a person of ordinary skill in the relevant art. *id.*

"KSR provided convincing evidence that mounting a modular sensor on a fixed pivot point of the Asano pedal was a design step well within the grasp of a person of ordinary skill in the relevant art. (*id* at 127 S.Ct. 1746)

The standard for anticipation under 35 USC 102 and obviousness under 35 USC 103(a) following *KSR* is detailed in *Forest Labs v. Ivax Pharmaceuticals*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007). In *Forest Labs*, the court determined that a reference mentioned a particular chemical component, but did not explain how to obtain it and therefore deemed that, "A reference that is not enabling is not anticipating." The court then deemed the product was therefore unobvious over that reference.

Applicant's claims describe:

"An apparatus ... comprising ... a supporting system comprising a porous fabric belt, means to form fabric tubular roll from the said porous fabric belt ... and means to guide said fabric tubular roll along with fibers and filaments through the pre-wetting troughs, the dye baths and the drying arrangement for dyeing the said fibers or filaments continuously and homogeneously." (Claim 1; claim 10 similar.)

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office Action dated September 2, 2009, is respectfully requested in view of this amendment. By this amendment, claims 2-5, 11 and 22-26 have been cancelled and claims 1, 6, 7 and 10 have been amended. Claims 1, 6-8, 10 and 12-16 are pending in this application. Support for the changes to claims 1 and 10 is found, *inter alia*, on Page 6 Para 2 and 3 of the specification and also by Fig 1 of the drawings as published by WIPO, or paragraphs [0024] and [0025] as published in U.S. Published Application No. 2007-0067918 and also in original claim 9. Also, as a matter of clarification, the term "fabric roll", has been replaced by "fabric tubular roll". Support for the changes to claim 14 is found, *inter alia*, on Page 8 Para 2 as published by WIPO, or paragraph [0029] as published in US 2007-0067918. It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132.

The cancellation of claims 2-5, 11 and 22-26 and the limitations as applied to the remaining independent claims is made without prejudice to later prosecution of the subject matter of these claims in this application or a subsequent continuation application.

In the outstanding Office Action, claims 1 and 14 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; and claims 1-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,917,118 to Kosann, et al. (hereinafter *Kosann*) in view of U.S. Patent No. 3,056,275 to Williams, et al. (hereinafter *Williams*). These rejections, as applied to the revised claims, are respectfully traversed.

Rejections Under 35 U.S.C. §112

The Examiner rejected claims 1 and 14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 1 was rejected as introducing process limitations and with respect to clarity issues regarding "fabric roll". Claim 14 was rejected in

that it was unclear how the step of preparing a fiber rope further limits the method of dyeing fibers.

Response

By this Response and Amendment, claims 1 and 14 have been amended and are believed to fully overcome the rejections under 35 U.S.C. §112.

These rejections are traversed as follows. 35 U.S.C. §112, second paragraph, states that "[t]he specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention."

It is respectfully submitted that amended claims 1 and 14 now particularly point out and distinctly claim the subject matter. By this Response and Amendment, the rejections to claims 1 and 14 are respectfully traversed.

Regarding claim 1, the claim now describes a fabric tubular roll. The fabric tubular roll can be formed by turning sides of the belt 360° so as to meet together. It is submitted that a person skilled in the art can easily understand the formation of fabric tubular roll from the fabric belt. Similar language also appears in claim 10.

Claim 14 now describes the fibers as being carried in either loose form or sliver form or intermediate or rope form. This description is believed to fully address the rejection of claim 14 under §112 by describing that the fibers are carried in either loose form, sliver form, intermediate form or rope form.

It is therefore respectfully submitted that the rejections under 35 U.S.C. §112 should be withdrawn.

Rejections Under 35 U.S.C. §103

The Examiner rejected claims 1-26 were rejected under 35 U.S.C. §103(a) over *Kosann*, taken in view of *Williams*. These rejections, as applied to the amended claims, are respectfully traversed.

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Applicant's claims describe:

"An apparatus ... comprising ... a supporting system comprising a porous fabric belt, means to form fabric tubular roll from the said porous fabric belt ... and means to guide said fabric tubular roll along with fibers and filaments through the pre-wetting troughs, the dye baths and the drying arrangement for dyeing the said fibers or filaments continuously and homogeneously." (Claim 1; claim 10 similar.)

Kosann is acknowledged as failing to disclose the use of a plurality of prewetting troughs, a plurality of dye baths, and a belt conveyor system comprised of a fabric roll. *Williams* is cited as showing prewetting troughs, plural dye baths and a support system utilizing a dual-belt type conveyor system. The *Williams* system provides for the purpose of continuously and homogeneously dyeing fibers or filaments, but using a dual belt type conveyer. Instead, the rejection under 35 USC 103(a) alleges that it would have been obvious to combine the references so as to provide for continuously and homogeneously dyeing of fibers or filaments.

This stipulation fails to meet the *KSR* test because the use of a porous fabric as a belt to support the fibers and form a tubular fabric roll for dying purposes is not a mere design step (not "a design step well within the grasp of a person of ordinary skill in the relevant art"). In this regard, *Kosann* specifies a different type of belt system and *Williams* specifies the use of woven wire. This is more than a superficial difference; it is a basic function of both the *Kosann* operability and the *Williams* operability.

In *Kosann*, the system uses different conveyors for each stage/section. This results in a dual belt conveyor system 61 for dye processing system 16, three conveyors 68, 69, 70 for the steamer, a singe conveyer 73 for first rinser 42, a single conveyor 75 for moving through heated bath 74, a conveyor 81 for oxidizing applicator 44, a conveyer 83 for drainage bin 82, a conveyor 91 for drainage bin 90 and the like. This necessarily means that the system of *Kosann* uses belts only for transportation purposes. In contrast, Applicant's claimed system uses a single, homogeneous system:

"... a porous fabric belt, means to form fabric tubular roll from the said porous fabric belt ... and means to guide said fabric tubular roll along with fibers and filaments... for dyeing the said fibers or filaments continuously and homogeneously." (Claim 1; claim 10 similar)

Such an arrangement allows a single supporting system to carrying fibers throughout the complete dyeing system. Further, though it is mentioned in *Kosann* that all belts are perforated at the top and bottom, the statement is made with respect to dye processing system only. (See *Kosann* at column 3, lines 30-38.)

Furthermore, not all the belts described by *Kosann* are perforated. In that regard, *Kosann* fails to disclose or teach that the belt is porous as claimed in the present patent application. In contrast, the present subject matter, as set forth in claims 1 and 10, is able to provide a single supporting system which comprises a roll formed from a porous fabric belt for passing through all the troughs and heating arrangement, unlike having belts for each stage/section of the system as in *Kosann*. The belts as set forth by the used in Applicant's system (claims 1 and 10) form a fabric tubular roll for carrying the fibers with them through each operation/stage/section i.e. dyeing, washing and drying. Therefore, it is respectfully submitted that the present subject matter, as set forth in claims 1 and 10, is neither shown nor suggested by *Kosann*, taken alone or in combination with *Williams*.

Regarding the combination of *Kosann* and *Williams*, it is respectfully submitted that *Williams* also fails to disclose, "a supporting system comprising a porous fabric belt, means to form fabric tubular roll from the said porous fabric belt for carrying the fibers or filaments and means to guide said fabric tubular roll along with fibers and filaments through the pre-wetting troughs, the dye baths and the drying arrangement". Though William states that the belt is permeable, *Williams* also states that the belt is made of woven wire. It is commonly known in the art that woven wire belts are made of metal or a combination of metal and rubber. Hence Applicant submits that *Williams* fails to teach or suggest the use of a porous fabric belt.

There is no incentive to combine the two references under *KSR* because one would not be inclined to use a woven wire belt to make the (metal) equivalent of a fabric tubular roll. Regarding the woven wire belt used by *Williams*, that configuration fails to teach making of fabric tubular roll from the porous fabric belt. In addition to the *Williams* belt not being a fabric belt, it is difficult to form a roll from such type of belt.

In view of above Applicant states that neither *Kosann* nor *Williams* teach or suggest the use of a porous fabric as a belt to support the fibers and form a tubular fabric roll for carrying the said fabrics for dying purpose. Therefore, even if the *Kosann* is combined with the *Williams*, the resultant combination would not disclose or suggest the claimed subject matter, as set forth in claims 1 and 10.

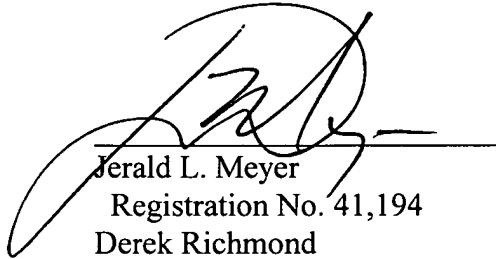
Claims 6-8 and 12-16 are written in dependent form and depend from claims 1 or 10. Those dependent claims should be allowable for at least the same reason that these independent claims are allowable.

It is therefore respectively submitted that the rejection under 35 U.S.C. §103(a) should be withdrawn and that the case be passed to issuance.

CONCLUSION

In light of the foregoing, Applicant submits that the application is in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner call the undersigned.

Respectfully submitted,
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